specifically claims that the inner wrap comprises from 55 to 85% by weight of wood fibers and from 15 to 45% by weight of flax. Examples 1-11 and Table 1 on pages 6-7 of the instant application clearly show that improved smoking characteristics in a smoking article, such as a decrease in irritation and improved smoke taste, are obtained with a double wrapped tobacco rod wherein the inner wrap is of a very specific range of wood fibers and flax. For instance, Examples 10 and 11 demonstrate that an inner wrap having 70% wood fiber and 30% flax cause very little smoke irritation and the smoke quality is very good or excellent. Conversely, Example 3 shows that there is moderate to high irritation and the smoke taste is poor for a smoking article having an inner wrap of the same basis weight of the inner wrap of Examples 10 and 11, but is comprised of a 50% by weight abaca and 50% by weight of wood.

Noe et al teaches a double wrap cigarette wherein the inner wrap, as pointed out by the Examiner, consists of a highly porous paper with an air permeability of 4000-8000 Coresta units and the outer layer is a conventional cigarette paper. The Examiner correctly points out that Noe et al does not teach nor remotely suggest the particular make-up of the inner wrap of the instant claimed invention. The Examiner cites the Ross reference as teaching a cigarette wrapper as comprising a mixture of wood and pulp fibers. However, Ross does not teach nor remotely suggest the two types of fibers, namely wood and flax and particularly

their appropriate proportions in a mixture which would be utilized in the instant claimed inner wrap. In fact, Ross says the type of fibers will be selected having regard to desired air-permeability of the finished sheet products. At column 3, lines 40-42, Ross teaches that there are a number of different types of non-wood fibers usable in his cigarette paper and specifically mentions abaca as well as flax. However, as pointed out in the instant application, the use of abaca and wood fibers in an inner wrap (Examples 1-3) demonstrates smoking characteristics of a smoking article which have a moderate to high amount of irritation and very poor taste. Ross makes no distinction between the use of abaca or flax with wood fibers, but Applicant submits that there is a clear distinction in the instant invention. The instant invention, as claimed, is directed to improved smoking characteristics whereas neither Ross nor Noe et al is remotely related to solving the problem to which the instant invention is directed. Applicant submits there is a long line of patent cases that clearly hold that in a combination of references, at least one of the references must be related to the solving of the problem to which the invention in the patent application is directed. See for example, In re Deminski, 796 F.2d 436, 442, 230 USPQ 313, 315 (Fed. Cir. 1986). Neither Noe et al nor Ross recognize the problem to which the instant invention is directed and therefore is improper for combining as teaching the instant claimed invention. Moreover, the instant invention is directed to a very specific composition of fibers in an inner

wrap and neither Noe et al nor Ross teaches this unique combination. Thus, Applicant urges that the instant claimed invention is patentable over the combination of Noe et al with Ross and Applicant respectfully requests that the Examiner withdraw his 35 USC §103(a) rejection.

The Examiner has rejected claims 4-5 under 35 USC §103(a) as being unpatentable over Noe et al in combination with Ross and Drewett et al. Applicant respectfully traverses the Examiner on this ground of rejection.

Claims 4 and 5 are dependent claims of claim 1 specifically claiming that the fibers may be either pine (claim 4) or eucalyptus (claim 5). Drewett et al teaches a smoking article, and as alleged by the Examiner, teaches the use of soft and hardwood fibers in a tobacco sheet. However, nowhere does Drewett et al teach or remotely suggest the unique double wrap of the instant claimed invention wherein the inner wrap is comprised of both wood fibers and non-wood fibers and specifically the inner wrap is comprised of from 55 to 85% by weight of wood fibers and from 15 to 45% by weight of flax. Thus, since Drewett et al does not correct the deficiencies of the combination of Noe et al with Ross in teaching independent claim 1, Applicant submits that the combination of Noe et al with Ross and Drewett et al does not teach nor remotely suggest the instant invention as set forth in claims 4 and 5 and therefore respectfully requests that the Examiner withdraw this rejection.

Applicant urges that the instant application is now in condition for allowance. However, if the Examiner believes there are other unresolved issues in this case, Applicant's attorney of record would appreciate a call at (502) 584-1135 to discuss such remaining issues.

Respectfully submitted,

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CERTIFICATE OF MAILING

UNDER 37 CFR 1.8

The undersigned certifies that this document is being placed in an envelope addressed to Commissioner of Patent and Trademarks, Washington, D.C. 20231, and deposited as first class mail, postage prepaid, this 4th day of February, 2002.

Dorothy P. Roane